

Appl. No.: 10/763,875  
Amdt. dated October 18, 2007  
Reply to Office Action of July 18, 2007

### **REMARKS/ARGUMENTS**

This is a full and timely response to the Office Action dated July 18, 2007. Applicant notes with appreciation the Examiner's thorough examination of the application as evidenced by the Office Action.

Prior to the issuance of the present Office Action, claims 1-28 were pending. It is respectfully submitted that pending Claims 1-28 are patentable over the cited art. As such, Applicant respectfully request reconsideration and allowance of the present claims in light of the following remarks.

#### **Claim Rejections – 35 USC § 103**

Claims 1-6, 8-23 and 25-28 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,481,588 to *Rickli* in view of U.S. Patent No. 6,400,690 to *Lui* et al. Claims 7 and 24 stand rejected under 35 U.S.C. §103 as being unpatentable over *Rickli* in view of *Lui* and further in view of U.S. Patent No. 5,752,164 to Jones.

#### *Claims 1-6 and 8-10*

The cited references, *Rickli* and *Lui*, either alone or in combination, fail to disclose or suggest each of the limitations recited in independent Claim 1. First, the Examiner concedes that *Rickli* fails to disclosed the limitations of “comparing said test parameters to said dispatch plan for each of said plurality of routes” and “identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters” as recited in Claim 1. The Examiner then argues that these limitations are disclosed in *Lui*.

Contrary to the Examiner's assertions, *Lui* does not disclose or suggest the limitation of “comparing said test parameters to said dispatch plan for each of said plurality of routes” as recited in Claim 1. In fact, *Lui* does not even discuss dispatch plans. The portion of *Lui* cited by the Examiner merely discloses the concept of combining data collected from a group of mobile wireless users to create an empirical map. After the data is collected and the empirical map is

created, the map may be used to alert users regarding coverage reliability in specific areas (see Col. 2, lines 6-32 of *Lui*).

Similarly, *Lui* also fails to disclose the limitation of “identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters” as recited in Claim 1. Because the system disclosed in *Lui* does not compare testing parameters to a dispatch plan as discussed above, it cannot identify routes as recited in Claim 1.

Because the cited references fail to disclose or suggest each of the limitations recited in Claim 1, it is respectfully asserted that the Examiner has not established a *prima facie* case of obviousness. Accordingly, the rejection of this claim is improper and should be withdrawn.

Claims 2-6 and 8-10 depend from independent Claim 1 and therefore include all of the limitations of amended Claim 1 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reasoning and for the reasons stated above, Claims 2-6 and 8-10 are distinguishable over the cited art.

#### *Claims 11-18*

The cited references, *Rickli* and *Lui*, either alone or in combination, fail to disclose or suggest each of the limitations recited in independent Claim 11. The Examiner concedes at page 6 of the office action that *Rickli* fails to disclose the limitation of “a third executable portion configured to compare said test parameters to said dispatch plan for each of said plurality of routes” as recited in Claim 11. The Examiner then argues that *Lui* discloses this limitation.

Contrary to the Examiner’s assertions, *Lui* does not disclose or suggest the limitation of “a third executable portion configured to compare said test parameters to said dispatch plan for each of said plurality of routes.” As discussed above with reference to Claim 1, *Lui* merely discloses creating an empirical map using data that has already been collected. There is no disclosure or suggestion of comparing test parameters to a dispatch plan.

Applicant also notes that the Examiner has conceded at page 3 of the office action that “*Rickli* fails to disclose ... identifying one or more optimal routes from among said plurality of routes based on the results of said comparing.” Therefore, *Rickli* cannot disclose the similar

limitation of “a fourth executable portion configured to identify one or more optimal routes from among said plurality of routes based on the results of said third executable portion” of Claim 11 as argued at page 6 of the Office Action.

Because the cited references fail to disclose or suggest each of the limitations recited in Claim 11, it is respectfully asserted that the Examiner has not established a *prima facie* case of obviousness. Accordingly, the rejection of this claim is improper and should be withdrawn.

Claims 12-17 depend from independent Claim 11 and therefore include all of the limitations of amended Claim 1 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reasoning and for the reasons stated above, Claims 12-17 are distinguishable over the cited art.

*Claims 18-23 and 25-28*

The cited references, *Rickli* and *Lui*, either alone or in combination fail to disclose or suggest each of the limitations recited in independent Claim 18. As noted with reference to Claim 1, the Examiner has conceded that *Rickli* does not disclose “comparing said test parameters to said dispatch plan for each of said plurality of routes” and “identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters.” Because the Examiner has argued Claims 1 and 18 together, it is assumed by the Applicant that the Examiner has also conceded that limitations of “means for comparing said test parameters to said dispatch plan for each of said plurality of routes” and “means for identifying one or more optimal routes from among said plurality of routes based on results from said comparing means, said optimal routes comprising those most nearly satisfying said test parameters” are not disclosed or suggested by *Rickli*. Thus, the Examiner appears to be relying on *Lui* to disclose these limitations in Claim 18.

Applying the same reasoning as described with reference to Claim 1, *Lui* does not disclose or suggest means for comparing test parameters to a dispatch plan or means for identifying optimum routes as recited in Claim 18. Accordingly, the Examiner has not

Appl. No.: 10/763,875  
Amdt. dated October 18, 2007  
Reply to Office Action of July 18, 2007

established a *prima facie* case of obviousness and the rejection of Claim 18 should therefore be withdrawn.

Claims 19-23 and 25-28 depend from independent Claim 18 and therefore include all of the limitations of amended Claim 1 plus additional limitations that are not disclosed in the prior art. Accordingly, for this reasoning and for the reasons stated above, Claims 19-23 and 25-28 are patentable over the cited art.

#### *Claims 7 and 24*

Claims 7 and 24 depend from independent Claims 1 and 18, respectively. Therefore, they include all of the limitations of their associated independent claim plus additional limitations that are not disclosed in the prior art. Accordingly, for this reasoning and for the reasons stated above, Claims 7 and 24 are patentable over the cited art.

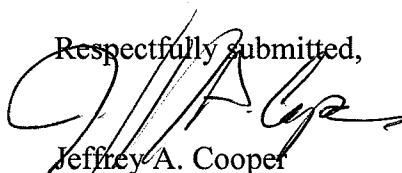
#### **Conclusion**

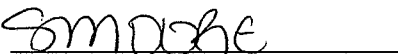
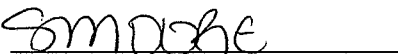
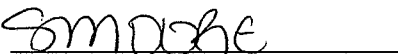
The foregoing is submitted as a full and complete response to the Office Action mailed July 18, 2007. In light of the appended remarks, Applicant hereby asserts the present application is in condition for allowance, and such action is respectfully requested.

Appl. No.: 10/763,875  
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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

  
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